



Excise Tax Advisory

Excise Tax Advisories (ETAs) are interpretive statements issued by the Department of Revenue under authority of RCW 34.05.230. ETAs explain the Department's policy regarding how tax law applies to a specific issue or specific set of facts. They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.

Number: 2011-2S.32

Issue Date: October 31, 2003

Withdrawal of Published Determinations

Excise Tax Advisory 2011.32 (ETA 2011) explains that the Department of Revenue (Department) publishes certain written opinions issued by its Appeals Division. These determinations, called Washington Tax Decisions or WTDs, are published in accordance with RCW 82.32.410 and are available on the Department's Internet website.

This advisory is the second supplement to ETA 2011 and announces the withdrawal of an additional WTD. Readers should refer to ETA 2011 for an explanation of when the Department will announce the withdrawal of a WTD through an ETA or ETA supplement.

ETA 2011 and its supplements should not be discarded as these documents provide a history of all WTDs withdrawn by the Department through an ETA or ETA supplement.

The following WTD is withdrawn effective October 31, 2003:

Det. 98-101, 18 WTD 260. The taxpayer in this determination is engaged in the business of escrow and closing of vessel sale transactions. Standard practice had been that upon closing of a transaction involving a vessel dealer the taxpayer would remit the sales tax collected on the sale to the selling vessel dealer. The taxpayer requested a ruling that it be permitted to collect and pay sales or use tax directly to the Department of Licensing when the vessel dealer was acting as an agent or broker for a vessel owner. This would relieve the vessel dealer of the duty to remit the collected retail sales tax to the Department of Revenue. The determination granted the taxpayer's request on the basis that there was no legal bar to the taxpayer collecting and remitting sales tax on behalf of dealers, as their agent.

This determination has been cancelled because the conclusion is incorrect. The Department of Licensing is by law only authorized to collect use tax on behalf of the Department of Revenue. Thus, in a transaction not involving a vessel dealer and where the owner/seller is not registered with the Department, the taxpayer as agent of the buyer may remit use tax to the Department of Licensing at the time of vessel registration. There is no statutory authority for remitting collected retail sales tax to the Department of Licensing. Consistent with RCW 82.08.040 and WAC 458-20-159 (Consignees, bailees, factors, agents and auctioneers), the selling vessel dealer as agent of the vessel owner is responsible for collecting and remitting retail sales tax to the Department of Revenue.

Advisories numbered as 2 plus three digits (e.g. 2002.16.179) are advisories issued on or after July 2, 1998.

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